

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

PLAINTIFFS
OUTTHINK, LLC

DEFENDANTS
INTERNATIONAL BUSINESS MACHINES CORPORATION

ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
PAUL W. GARRITY
SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
30 ROCKEFELLAR PLAZA, NEW YORK, NEW YORK 10112-0015
(212) 653-8700

ATTORNEYS (IF KNOWN)

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)
(DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

TRADEMARK INFRINGEMENT (15 U.S.C. 1114(1)); UNFAIR COMPETITION AND FALSE DESIGNATION OF ORIGIN (15 U.S.C. 1125(a))

Has this action, case, or proceeding, or one essentially the same been previously filed in SDNY at any time? No ☐ Yes ☒ Judge Previously Assigned

If yes, was this case Vol. ☐ Invol. ☐ Dismissed. No ☐ Yes ☐ If yes, give date _____ & Case No. _____

IS THIS AN INTERNATIONAL ARBITRATION CASE? No ☒ Yes ☐

(PLACE AN [X] IN ONE BOX ONLY)

NATURE OF SUIT

TORTS		ACTIONS UNDER STATUTES			
CONTRACT	PERSONAL INJURY	PERSONAL INJURY	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 INSURANCE	<input type="checkbox"/> 310 AIRPLANE	<input type="checkbox"/> 367 HEALTHCARE/	<input type="checkbox"/> 625 DRUG RELATED	<input type="checkbox"/> 422 APPEAL	<input type="checkbox"/> 375 FALSE CLAIMS
<input type="checkbox"/> 120 MARINE	<input type="checkbox"/> 315 AIRPLANE PRODUCT	PHARMACEUTICAL PERSONAL	SEIZURE OF PROPERTY	28 USC 158	<input type="checkbox"/> 400 STATE
<input type="checkbox"/> 130 MILLER ACT	LIABILITY	<input type="checkbox"/> 365 PERSONAL INJURY	21 USC 881	<input type="checkbox"/> 423 WITHDRAWAL	REAPPORTIONMENT
<input type="checkbox"/> 140 NEGOTIABLE	<input type="checkbox"/> 320 ASSAULT, LIBEL &	PRODUCT LIABILITY	<input type="checkbox"/> 690 OTHER	28 USC 157	<input type="checkbox"/> 410 ANTITRUST
<input type="checkbox"/> 150 RECOVERY OF	SLANDER	<input type="checkbox"/> 368 ASBESTOS PERSONAL			<input type="checkbox"/> 430 BANKS & BANKING
OVERPAYMENT &	<input type="checkbox"/> 330 FEDERAL	INJURY PRODUCT			<input type="checkbox"/> 450 COMMERCE
ENFORCEMENT	EMPLOYERS'	LIABILITY			<input type="checkbox"/> 460 DEPORTATION
OF JUDGMENT	LIABILITY			PROPERTY RIGHTS	<input type="checkbox"/> 470 RACKETEER INFLU-
<input type="checkbox"/> 151 MEDICARE ACT	<input type="checkbox"/> 340 MARINE	PERSONAL PROPERTY		<input type="checkbox"/> 820 COPYRIGHTS	ENCED & CORRUPT
<input type="checkbox"/> 152 RECOVERY OF	<input type="checkbox"/> 345 MARINE PRODUCT	<input type="checkbox"/> 370 OTHER FRAUD		<input type="checkbox"/> 830 PATENT	ORGANIZATION ACT
DEFAULTED	LIABILITY	<input type="checkbox"/> 371 TRUTH IN LENDING		<input checked="" type="checkbox"/> 840 TRADEMARK	(RICO)
STUDENT LOANS	<input type="checkbox"/> 350 MOTOR VEHICLE				<input type="checkbox"/> 480 CONSUMER CREDIT
(EXCL VETERANS)	<input type="checkbox"/> 355 MOTOR VEHICLE			SOCIAL SECURITY	<input type="checkbox"/> 490 CABLE/SATELLITE TV
<input type="checkbox"/> 153 RECOVERY OF	PRODUCT LIABILITY	<input type="checkbox"/> 380 OTHER PERSONAL	LABOR	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 850 SECURITIES/
OVERPAYMENT	<input type="checkbox"/> 360 OTHER PERSONAL	PROPERTY DAMAGE	<input type="checkbox"/> 710 FAIR LABOR	<input type="checkbox"/> 862 BLACK LUNG (923)	COMMODITIES/
OF VETERAN'S	INJURY	<input type="checkbox"/> 385 PROPERTY DAMAGE	STANDARDS ACT	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	EXCHANGE
BENEFITS	<input type="checkbox"/> 362 PERSONAL INJURY -	PRODUCT LIABILITY	<input type="checkbox"/> 720 LABOR/MGMT	<input type="checkbox"/> 864 SSID TITLE XVI	<input type="checkbox"/> 890 OTHER STATUTORY
<input type="checkbox"/> 160 STOCKHOLDERS	MED MALPRACTICE		RELATIONS	<input type="checkbox"/> 865 RSI (405(g))	ACTIONS
SUITS		PRISONER PETITIONS	<input type="checkbox"/> 740 RAILWAY LABOR ACT		<input type="checkbox"/> 891 AGRICULTURAL ACTS
<input type="checkbox"/> 190 OTHER	ACTIONS UNDER STATUTES	<input type="checkbox"/> 463 ALIEN DETAINEE	<input type="checkbox"/> 751 FAMILY MEDICAL	FEDERAL TAX SUITS	
CONTRACT	CIVIL RIGHTS	<input type="checkbox"/> 510 MOTIONS TO	LEAVE ACT (FMLA)	<input type="checkbox"/> 870 TAXES (U.S. Plaintiff or	<input type="checkbox"/> 893 ENVIRONMENTAL
<input type="checkbox"/> 195 CONTRACT	<input type="checkbox"/> 440 OTHER CIVIL RIGHTS	VACATE SENTENCE		Defendant)	MATTERS
PRODUCT	(Non-Prisoner)	28 USC 2255	<input type="checkbox"/> 790 OTHER LABOR	<input type="checkbox"/> 871 IRS-THIRD PARTY	<input type="checkbox"/> 895 FREEDOM OF
LIABILITY		<input type="checkbox"/> 530 HABEAS CORPUS	LITIGATION	26 USC 7609	INFORMATION ACT
<input type="checkbox"/> 196 FRANCHISE		<input type="checkbox"/> 535 DEATH PENALTY	<input type="checkbox"/> 791 EMPL RET INC		<input type="checkbox"/> 896 ARBITRATION
		<input type="checkbox"/> 540 MANDAMUS & OTHER	SECURITY ACT (ERISA)		<input type="checkbox"/> 899 ADMINISTRATIVE
REAL PROPERTY	<input type="checkbox"/> 441 VOTING	PRISONER CIVIL RIGHTS	IMMIGRATION		PROCEDURE ACT/REVIEW OR
<input type="checkbox"/> 210 LAND	<input type="checkbox"/> 442 EMPLOYMENT	<input type="checkbox"/> 550 CIVIL RIGHTS	<input type="checkbox"/> 462 NATURALIZATION		APPEAL OF AGENCY DECISION
CONDEMNATION	<input type="checkbox"/> 443 HOUSING/	<input type="checkbox"/> 555 PRISON CONDITION	APPLICATION		<input type="checkbox"/> 950 CONSTITUTIONALITY OF
<input type="checkbox"/> 220 FORECLOSURE	ACCOMMODATIONS	<input type="checkbox"/> 560 CIVIL DETAINEE	<input type="checkbox"/> 465 OTHER IMMIGRATION		STATE STATUTES
<input type="checkbox"/> 230 RENT LEASE &	<input type="checkbox"/> 445 AMERICANS WITH	CONDITIONS OF CONFINEMENT	ACTIONS		
EJECTMENT	DISABILITIES -				
<input type="checkbox"/> 240 TORTS TO LAND	EMPLOYMENT				
<input type="checkbox"/> 245 TORT PRODUCT	<input type="checkbox"/> 446 AMERICANS WITH				
LIABILITY	DISABILITIES -OTHER				
<input type="checkbox"/> 290 ALL OTHER	<input type="checkbox"/> 448 EDUCATION				
REAL PROPERTY					

Check if demanded in complaint:

☐ CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.?
IF SO, STATE:

DEMAND \$ _____ OTHER _____ JUDGE _____ DOCKET NUMBER _____

Check YES only if demanded in complaint

JURY DEMAND: ☒ YES ☐ NO

NOTE: You must also submit at the time of filing the Statement of Relatedness form (Form IH-32).

(PLACE AN x IN ONE BOX ONLY)

ORIGIN

- ☒ 1 Original Proceeding
 ☐ 2 Removed from State Court
 ☐ 3 Remanded from Appellate Court
 ☐ 4 Reinstated or Reopened
 ☐ 5 Transferred from (Specify District)
 ☐ 6 Multidistrict Litigation
 ☐ 7 Appeal to District Judge from Magistrate Judge Judgment
- ☐ a. all parties represented
☐ b. At least one party is pro se.

(PLACE AN x IN ONE BOX ONLY)

BASIS OF JURISDICTION

- ☐ 1 U.S. PLAINTIFF
 ☐ 2 U.S. DEFENDANT
 ☒ 3 FEDERAL QUESTION (U.S. NOT A PARTY)
 ☐ 4 DIVERSITY

IF DIVERSITY, INDICATE CITIZENSHIP BELOW.

CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

CITIZEN OF THIS STATE	PTF [] 1	DEF [] 1	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	PTF DEF [] 3 [] 3	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	PTF DEF [] 5 [] 5
CITIZEN OF ANOTHER STATE	[] 2	[] 2	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	[] 4 [] 4	FOREIGN NATION	[] 6 [] 6

PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)

WITCH HAZEL WORKS

8 RAILROAD AVE., SUITE 110, P.O. BOX 8

ESSEX, CONNECTICUT 06426

MIDDLESEX COUNTY

DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)

51 ASTOR PLACE

NEW YORK, NEW YORK

NEW YORK COUNTY

DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

Check one: THIS ACTION SHOULD BE ASSIGNED TO: ☐ WHITE PLAINS ☒ MANHATTAN
 (DO NOT check either box if this a PRISONER PETITION/PRISONER CIVIL RIGHTS COMPLAINT.)

DATE 2/3/2016 SIGNATURE OF ATTORNEY OF RECORD

ADMITTED TO PRACTICE IN THIS DISTRICT

[] NO

☒ YES (DATE ADMITTED Mo. 10 Yr. 1996)
 Attorney Bar Code # PG3492

RECEIPT #

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge _____ is so Designated.

Ruby J. Krajick, Clerk of Court by _____ Deputy Clerk, DATED _____.

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)